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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/423,131	11/05/1999	HIROSHI KAWAKAMI	3815/90	6371
22913	7590	10/28/2005	EXAMINER	
WORKMAN NYDEGGER (F/K/A WORKMAN NYDEGGER & SEELEY) 60 EAST SOUTH TEMPLE 1000 EAGLE GATE TOWER SALT LAKE CITY, UT 84111			HOM, SHICK C	
			ART UNIT	PAPER NUMBER
			2666	
DATE MAILED: 10/28/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/423,131	KAWAKAMI ET AL.	
	Examiner	Art Unit	
	Shick C. Hom	2666	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 7/27/05 & 9/8/05.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 3-8,10,20 and 24-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 3-8,10,20 and 24-26 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION***Response to Arguments***

1. Applicant's arguments filed 7/27/05 have been fully considered but they are not persuasive. In page 8 lines 6-9, applicant argued that Kobayashi et al. in view of Reeder et al. do not disclose a traffic monitoring period (cycle) defined by taking account of a period (cycle) proper to the data at which the data takes place in a burst mode is not persuasive because applicant is merely claiming the means for traffic control whereby cumulative traffic volume is monitored for a period of time wherein the period of time is taken so that the cumulative traffic volume does not exceed an allowable limit. Kobayashi et al. in col. 6 lines 12-31 teach that if traffic volume is subjected to a burst increase, it may exceed the established channel capacity and in that case channels with empty traffic volume can be used to avoid calls being lost clearly anticipate traffic control in a burst mode. Further Reeder et al., in the area of traffic control, in col. 4 lines 11-27. teach varying the monitoring period instead of the intervals being contiguously spaced clearly reads on the traffic monitoring period (cycle) defined by taking account of a period (cycle)

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proper to the data at which the data takes place in a burst mode as claimed.

Claim Rejections - 35 USC § 112

2. Claims 3-8, 10, 20, 24-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 3, 4, 10, 24, 25, 26 lines 15, 2, 2, 15, 2, 2, respectively, which recite "a burst mode at a period proper to the data" is not clear because a burst mode is usually defined as a way of doing data transmission in which a continuous block of data is transferred between main memory and an input/output device without interruption until the transfer has been completed, i.e. no period, therefore it is not clear as to what the proper period or period proper to the data is being referred to. Claims 5-8 and 20 are rejected under 35 U.S.C. 112, second paragraph because they depend from rejected claims 4 and 3, respectively.

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Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary.

Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 4, 8, 10, 25, 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kobayashi et al. (5,978,380) in view of Reeder et al. (6,192,031).

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Regarding claims 4, 10, 25, 26:

Kobayashi et al. disclose the traffic control method for carrying out traffic control of data taking place in a burst mode at a period time to the data (see col. 6 lines 12-31 which recite the channel capacity being set and controlled based on the average traffic volume whereby if the traffic volume is subjected to a burst increase, it may exceed the established channel capacity and the signals are rejected), said traffic control method comprising the steps of receiving the data; carrying out the traffic control of the data received such that a cumulative transmission volume in a traffic monitoring time defined by taking account of the proper time does not exceed an allowed transmission volume based on a traffic rate; and transmitting the data passing through said traffic control (see col. 7 line 36 to col. 8 line 43 which recite the channel capacity manager using a capacity steadyng timer to measure a capacity steadyng time whereby if the traffic volume is lowered below a threshold or increased before the capacity steadyng timer fully measures the capacity steadyng time the capacity manage sets the channel capacity to a smaller or larger threshold, respectively, clearly reads on the traffic monitoring time being defined by taking account of the proper time not

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exceeding an allowed transmission volume based on a traffic rate).

Regarding claim 8:

Kobayashi et al. disclose wherein said data consists of ATM cells (see col. 4 lines 8-38 which recite the use of ATM cell).

For claims 4, 8, 10, 25, 26, Kobayashi et al. disclose all the subject matter of the claimed invention with the exception of the traffic control taking place at a time and the traffic monitoring time being a period and cycle proper to the data as in claims 4, 10, 25-26; and wherein the ATM cells being generated from a radio frame and period proper being a radio frame period as in claim 8.

Reeder et al. from the same or similar fields of endeavor teach that it is known to provide the traffic control taking place at a time and the traffic monitoring time being a period and cycle proper to the data (see col. 4 lines 11-27 which recite the measurement intervals being suitable period or cycle clearly anticipate the monitoring time being a period or cycle as in claims 4, 10, 25-26; and wherein the ATM cells being generated from a radio frame and period proper being a radio frame period (see col. 1 lines 15-22 which recite the use of radio or microwave communication as in claim 8).

Thus, it would have been obvious to the person having ordinary skill in the art at the time the invention was made to provide the traffic control taking place at a time and the traffic monitoring time being a period and cycle proper to the data; and wherein the ATM cells being generated from a radio frame and period proper being a radio frame period as taught by Reeder et al. in the traffic control unit and method of Kobayashi et al. The traffic control taking place at a time and the traffic monitoring time being a period and cycle proper to the data; and wherein the ATM cells being generated from a radio frame and period proper being a radio frame period can be implemented by providing an interval of time whereby the traffic is monitored and providing wireless communication in the traffic control unit of Kobayashi et al. The motivations for providing the traffic control taking place at a time and the traffic monitoring time being a period and cycle proper to the data; and wherein the ATM cells being generated from a radio frame and period proper being a radio frame period as taught by Reeder et al. in the traffic control unit and method of Kobayashi et al. being that they provides more reliability for the system since the system periodically and cyclically monitor the traffic to prevent loss of data and providing the added feature of wireless communication.

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Allowable Subject Matter

6. Claims 3, 20, 24 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

7. Claims 5-7 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shick C. Hom whose telephone number is 571-272-3173. The examiner can normally be reached on Monday to Friday with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on 571-272-3174. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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DONG TON
PRIMARY EXAMINER

A handwritten signature consisting of two stylized, cursive letters, possibly 'D' and 'T', followed by printed text.